IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 784 of 2005

Between:

Dr. Syed Ahmood, S/o. Late Sri Lal Ahmood Saheb, Business,
R/o. Lakkavaram Village, jangareddygudem Mandal,
W.G.District.

..... PETITIONER

AND

1 Eastern Power Distribution Company of A.P. Ltd., rep. by its M.D., Visakhapatnam.
2 Assistant Divisional Engineer (Operations), E.P.D.C. of A.P. Ltd., Janagareddygudem, W.G.Dist.
3 Divisional Engineer (Assessments, APEPDCL, Rajahmundry, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ order or direction more particularly one in the nature of writ of Mandamus by declaring the notice dt. 18.1.2005 in Lr.No.ADE/0/JRG/F.DKT/D.No.51/2005 as illegal, arbitrary and unconstitutional and set aside the same and pass such other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.B.VIJAYSEN REDDY

Counsel for the Respondents 1 to 3: MR.M.SREERAMULU REDDY

The Court, at the stage of admission, made the following :

ORDER:

The petitioner was issued an order of provisional assessment, dated 18-01-2005, by the 2nd respondent. It was indicated therein that in the inspection conducted on 15-01-2005, certain irregularities were noticed in the matter of power supply to the petitioner and that the value of the misused energy was estimated at Rs.1,63,125/-. The petitioner was required to pay a sum of Rs.81,563/-, in case, he wants the continuance of power supply. The petitioner challenges the order of provisional assessment insofar as it directs the petitioner to deposit the said amount.

Heard learned counsel for the petitioner and learned Standing Counsel for the respondents, Mr. M. Sree Ramulu Reddy.

As of now, the petitioner is served with an order of provisional assessment as provided for under Section 126 of the Electricity Act, 2003 (for short "the Act"). The petitioner is yet to submit his explanation. The petitioner denies the allegations made against him. The truth or otherwise of the charges of the allegations against the petitioner can be decided only after he submits an explanation and an order of final assessment is passed. Till the order of final assessment is passed, the petitioner cannot be required to pay any amounts.

In W.A.No.452 of 2004, a Division Bench of this Court in its judgment, dated 11-03-2004, took the view that no consumer can be compelled to pay any amount on the strength of an order of provisional assessment.

In view of scope and ambit of Section 126 of the Act as well as the judgment of a Division Bench of this Court in W.A.No.452 of 2004, the writ petition is allowed and it is directed that the respondents shall not insist on the petitioner to pay any amount covered by the order of provisional assessment and they shall continue the power supply to the petitioner as long as he continues to pay the actual consumer charges. The liability of the petitioner in relation to the alleged pilferage shall be decided only in the order of final assessment. There shall be no order as to costs.

27-01-2005

GJ

To

1. The Managing Director, Eastern Power Distribution Company of A.P. Ltd., Visakhapatnam.

2. The Assistant Divisional Engineer (Operations), E.P.D.C. of A.P. Ltd., Janagareddygudem, W.G.Dist.

3. The Divisional Engineer (Assessments), APEPDCL, Rajahmundry, West Godavari District.

4 Two C.D. copies.